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EXAMINER
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BATTAGLIA, MICHAEL V

ART UNIT	PAPER NUMBER
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2627

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/719,045	Applicant(s) COOKSON ET AL.	
	Examiner Michael V. Battaglia	Art Unit 2627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Drawings*

1. The replacement drawing received on September 28, 2006 is acceptable.
2. The drawings are objected to because characters “A” and “B” are misaligned in Fig. 1F and are missing from Fig. 1H. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: “D” of Fig. 1B is not mentioned in the description.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

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notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. Claims 1-7 are objected to because of the following informalities:
- a.) On line 2 of claim 1, replacing "lead-in" with --lead-in area-- is suggested.
  - b.) On line 3 of claim 1, replacing "lead-in" with --lead-in area-- is suggested.
  - c.) On line 2 of claim 7, replacing "one side" with --the sides-- is suggested.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 recites the limitations "said lead-in areas" and "said lead-out areas" in line 7. There is insufficient antecedent basis for this limitation in the claim. As a result, it is unclear whether the claim requires one side or both sides to have a lead-in area and a lead-out are, and the scope of the protection sought is indefinite.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 8, 9, 11-13, 15, 20, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito et al (hereafter Ito '032) (US 5,881,032).

In regard to claim 1, Ito '032 discloses a method of reading data on an optical disc (Figs. 2 and 4) having a first side (Figs. 2 and 4, elements L3 and L4) and a second side (Figs. 2 and 4, elements L1 and L2), each side including a lead-in area (Figs. 2 and 4, area where reading begins in L1 and area where reading begins in L3) and a lead-out area (Figs. 2 and 4, area where reading ends in L2 and area where reading ends in L4) with data being arranged in sequence from said lead-in area to said lead-out area (Figs. 2 and 4 and Col. 11, lines 31-41), comprising: rotating the disc (Col. 9, lines 42-43); reading data from the lead-in area of said first side to the lead-out area of said first side (Fig. 2); and then reading data from the lead-in area of said second side to the lead-out area of said first second side (Fig. 2), without stopping the disc (Col. 9, lines 35-54). It is noted that the optical disc of Ito '032, like any other disc, has two sides. One side of the optical disc of Ito '032 includes elements L3 and L4 of Fig. 2 while the second of the optical disc of Ito '032 includes elements L1 and L2 of Fig. 2. See Response to Arguments below for further explanation.

In regard to claim 2, Ito '032 discloses that the disc has a hub (inherent in an optical disc and located within the "inside circumference" of Col. 9, line 40) and a periphery ("outer circumference" of Col. 9, line 38) and each side has a top layer (Figs. 2 and 4, elements L2 and L4) and a bottom layer (Figs. 2 and 4, elements L1 and L3) and a middle area (Fig. 2, area where reading shifts from L1 to L2 and area where reading

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shifts from L3 to L4) with the lead-in area being disposed on one of said top and bottom layers (note that the lead-in areas of Ito '032 are in L1 and L3, which are bottom layers) and the lead out area being disposed on the other of said top and bottom layers (note that the lead-out areas of Ito '032 are in L2 and L4, which are top layers), further comprising reading data with a laser head (Fig. 5, elements 5-7) and refocusing said laser head in said middle area between said top and said bottom layers (inherent to switching at the middle area between L1 and L2 and switching at the middle area L3 and L4).

In regard to claim 3, Ito '032 discloses that said lead-in areas and lead-out areas are disposed at the hub (Fig. 2 and Col. 8, lines 35-45).

In regard to claim 6, Ito '032 discloses that said lead-in areas are on said bottom layers and said lead-out areas are on said top layers (Fig. 2).

In regard to claim 8, Ito '032 discloses a method of reading data from an optical disc (Figs. 2 and 4) comprising: providing an optical disc (Figs. 2 and 4) with a hub (inherent in an optical disc and located within the "inside circumference" of Col. 9, line 40) and a periphery ("outer circumference" of Col. 9, line 38), a first side (Figs. 2 and 4, elements L1 and L2) and a second side (Figs. 2 and 4, elements L3 and L4), each side having a top layer (Figs. 2 and 4, elements L2 and L4) and a bottom layer (Figs. 2 and 4, elements L1 and L3) and a lead-in area (Figs. 2 and 4, area where reading begins in L1 and area where reading begins in L3), a lead-out area (Figs. 2 and 4, area where reading ends in L2 and area where reading ends in L4) and a middle area (Fig. 2, area where reading shifts from L1 to L2 and area where reading shifts from L3 to L4); reading data from said first side from said lead-in to said lead-out area (Fig. 2); switching to said second side without turning the disc over (Col. 9, lines 35-54); and reading data from said

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second side from said lead-in to said lead-out area (Fig. 2). It is noted that the optical disc of Ito '032 has first and second sides for the reasons discussed in the rejection of claim 1 over Ito '032 above and in the Response to Arguments below.

In regard to claim 9, Ito '032 discloses reading data with a reading head (Fig. 5, elements 5-7) and refocusing said reading head at said middle area to switch between said top and bottom layers (inherent to switching at the middle area between L1 and L2 and switching at the middle area L3 and L4).

In regard to claim 11, Ito '032 discloses reading the bottom layer before reading the top layer (Fig. 2).

In regard to claim 12, Ito '032 discloses reading the top layer on the first side and reading the bottom layer on the second side (Fig. 2).

In regard to claim 13, Ito '032 discloses a method of reading data from an optical disc comprising: providing an optical disc (Figs. 2 and 4) with a hub (inherent in an optical disc and located within the "inside circumference" of Col. 9, line 40) and a periphery ("outer circumference" of Col. 9, line 38), a first side (Figs. 2 and 4, elements L1 and L2) and a second side (Figs. 2 and 4, elements L3 and L4), said first side having a top layer A0 (Figs. 2 and 4, element L2) and a bottom layer A1 (Figs. 2 and 4, element L1) and said second side having a top layer B0 (Figs. 2 and 4, element L4) and a bottom layer B1 (Figs. 2 and 4, element L3) and lead-in area (Figs. 2 and 4, area where reading begins in L1 and area where reading begins in L3), a lead-out area (Figs. 2 and 4, area where reading ends in L2 and area where reading ends in L4) and a middle area (Fig. 2, area where reading shifts from L1 to L2 and area where reading shifts from L3 to L4), said disc having data arranged in sequence from said lead-in areas to said lead-out areas

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(Figs. 2 and 4 and Col. 11, lines 31-41); reading data from said first side (Fig. 2); switching to said second side without turning the disc over and without stopping the rotation of the disc (Col. 9, lines 35-54); and reading data from said second side (Fig. 2). It is noted that the optical disc of Ito '032 has first and second sides for the reasons discussed in the rejection of claim 1 over Ito '032 above and in the Response to Arguments below.

In regard to claim 15, Ito '032 discloses reading data from the layers in the sequence A1-A0-B1-B0 (Fig. 2).

In regard to claim 20, Ito '032 discloses reading data from a lead-in area disposed at the hub to a lead-out area disposed at the hub (Fig. 2 and Col. 8, lines 35-45).

In regard to claim 25, Ito '032 discloses reading data from said first side using a laser head (Fig. 5, elements 5-7), switching said laser head to the second side (Col. 9, lines 35-54).

In regard to claim 26, Ito '032 discloses switching said laser head from one side to another without stopping the rotation of the disc (Col. 9, lines 35-54).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito '032.

The bottom and top layers of Ito '032 are relative to the apparatus of Fig. 5, which reads the disc of Figs. 2 and 4 from below. An apparatus that reproduces a disc from



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above is notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an apparatus that reproduces a disc from above, the motivation being to read the disc of Ito '032 in players that reproduce from above. It is noted that when the disc of Figs. 2 and 4 is reproduced from above, the disc would be turned upside down and the top and bottom layers switched. Thus, claim 10 read on the method of reading the disc of Figs. 2 and 4 when the disc is being read by an apparatus that reproduces from above the disc.

9. Claims 1, 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (hereafter Thompson) (US 2003/0123379) in view of Mitzutani et al (hereafter Mitzutani) (US 4,807,204).

In regard to claim 1, Thompson discloses a method of reading data on an optical disc (Fig. 4, element 215) having a first side and a second side, each side (Paragraphs 0062 and 0064) including a lead-in area (Fig. 6, element 300) and a lead-out area (Fig. 6, element 320) with data being arranged in sequence from said lead-in area to said lead-out area (Fig. 6), comprising: rotating the disc (inherent to playback a DVD); reading data from the lead-in area of said first side to the lead-out area of said first side (Paragraph 0064); and then reading data from the lead-in area of said second side to the lead-out area of said second side (Paragraph 0064). Thompson does not disclose that the first and second sides of the disc are read without stopping the disc.

Mitzutani discloses reading the first (Fig. 21, elements 312, 314, 318, 322 and 326 and Fig. 22) and second (Fig. 21, elements 313, 316, 320, 324 and 328 and Fig. 23) sides of a disc (Fig. 21, element 310) without stopping the disc by making the tracks of the first

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side opposite to those of the second side (Figs. 22 and 23 and Col. 21, lines 1-43), thereby decreasing access time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to read the first and second sides of the optical disc of Thompson without stopping the disc by making the tracks of the first side opposite to those of the second side as suggested by Mitzutani, the motivating being to decrease access time.

In regard to claim 2, Thompson discloses that the disc has a hub (inherent to a DVD) and a periphery (inherent to a DVD) and each side has a top layer and a bottom layer (Fig. 4, element 215) and a middle area (Fig. 6, element 330 and Paragraphs 0062 and 0064) with the lead-in area being disposed on one of said top and bottom layers (Fig. 6, Layer 0) and the lead out area being disposed on the other of said top and bottom layers (Fig. 6, Layer 1), further comprising reading data with a laser head (inherent to playback of a DVD) and refocusing said laser head in said middle area between said top and said bottom layers (Paragraph 0064).

In regard to claim 13, Thompson discloses a method of reading data from an optical disc comprising: providing an optical disc (Fig. 4, element 215) with a hub (inherent to a DVD) and a periphery (Fig. 4, element 215), a first side and a second side, said first side having a top layer A0 and a bottom layer A1 and said second side having a top layer B0 and a bottom layer B1 (Fig. 4, element 215) and lead-in area, a lead-out area and a middle area (Fig. 6, elements 300, 320 and 330, respectively, and see Paragraphs 0062 and 0064), said disc having data arranged in sequence from said lead-in area to said lead-out area (Fig. 6); reading data from said first side (Fig. 6, element 325 and

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Paragraphs 0062 and 0064); and reading data from said second side (Fig. 6, element 325 and Paragraphs 0062 and 0064). Thompson does not disclose switching to said second side without turning the disc over and without stopping the rotation of the disc.

Mitzutani discloses reading the first (Fig. 21, elements 312, 314, 318, 322 and 326 and Fig. 22) and second (Fig. 21, elements 313, 316, 320, 324 and 328 and Fig. 23) sides of a disc (Fig. 21, element 310) without turning the disc over and without stopping the disc by making the tracks of the first side opposite to those of the second side (Figs. 22 and 23 and Col. 21, lines 1-43), thereby decreasing access time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to read the first and second sides of the optical disc of Thompson without turning the disc over and without stopping the disc by making the tracks of the first side opposite to those of the second side as suggested by Mitzutani, the motivating being to decrease access time.

10. Claims 4 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of Mitzutani, as applied to claims 2 and 13 above, and further in view of Yokogawa et al (hereafter Yokogawa) (US 5,608,715).

Thompson discloses reading data from a lead-in area to a lead-out area. Thompson further discloses that the lead-in area is on one of the top and bottom layers and the lead-out area of the same side is on the other of the top and bottom layers and immediately above or below the lead-in area to enable the seamless opposite track path (OTP) playback (Fig. 6, element 325 and Paragraph 0064). However, Thompson does not disclose that the lead-in area and lead-out area are disposed at the periphery.

Yokogawa discloses an OTP arrangement (Col. 14, lines 11-22) and teaches that it is preferable the lead-in area (area where reading is started at the outer side (Col. 14, lines 28-29)) and lead-out area (area where at outer side to which reading proceeds (Col. 14, line 32)) are disposed at the periphery (Col. 14, lines 26-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the lead-in area and lead-out area of Thompson to be disposed at the periphery as suggested by Yokogawa, the motivation being to make establishing a focus easier.

11. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson in view of O'Hara as applied to claim 2 above, and further in view of Lee et al (hereafter Lee) (US 2004/0032813).

In regard to claims 5-7, Thompson discloses that the lead-in area on one side is on one of the top and bottom layers and the lead-out area of the same side is on the other of the top and bottom layers to enable seamless, opposite track path (OTP) playback (Fig. 6, element 325 and Paragraph 0064). However, because Fig. 6, element 325 of Thompson only shows one side of the double-sided, dual-layer disc of Fig. 4, element 215 (Paragraph 0062), Thompson discloses neither which of the top and bottom layers the lead-in and lead-out areas are on nor how the lead-in area layer on one side relates to the lead-in area layer on the other side.

Lee discloses a disc having a top layer and a bottom layer (Figs. 1-4, elements 10 and 11) including a lead-in area (Figs. 1-2, element LI of 10 and Figs. 3-4, element LI of 11) and a lead-out area (Figs. 1-2, element LO of 11 and Figs. 3-4, element LO of 10). Lee further discloses that having said lead-in area on said top layer and said lead-out area is

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on said bottom layer was an art-recognized equivalent to having said lead-in area on said bottom layer and said lead-out area is on said top layer at the time of the invention for the purpose of OTP playback (Figs. 1-4 and Paragraphs 0034 and 0037-38)).

Therefore, one of ordinary skill would have found it obvious to use in the method of Thompson either one of the arrangements of Lee, including having said lead-in area on said top layer and said lead-out area is on said bottom layer (claim 5) or having said lead-in area on said bottom layer and said lead-out area is on said top layer (claim 6), for performing OTP playback in the method of Thompson. Further, because the arrangements of the lead-in and lead-out areas on the layers of a side were art-recognized equivalents at the time of the invention for the purpose of OTP playback, one of ordinary skill would have found it obvious to use any of the four combinations of one of the arrangements on one side and one of the arrangements on the other side, including either of the two combinations where the lead-in area on one side is on the top layer and the lead in area on the other side is on the bottom layer (claim 7), for the purpose of OTP playback on both sides.

12. Claims 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitzutani et al (hereafter Mitzutani) (US 4,807,204) in view of Ito et al (hereafter Ito '909) (US 2003/0137909).

In regard to claim 13, Mitzutani discloses a method of reading data from an optical disc comprising: providing an optical disc (Fig. 24, element 370) with a hub (portion of Fig. 24, element 370 having diagonal lines) and a periphery (portion of Fig. 24, element 370 near the 372a-n and 374a-n labels), a first side (side having elements 372a-n of Fig. 24 (Col. 21, lines 44-48)) and a second side (side having elements 374a-n

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of Fig. 24 (Col. 21, lines 44-48)), said first side having a top layer A0 (Fig. 24, element 372a) and a bottom layer A1 (Fig. 24, element 372b) and said second side having a top layer B0 (Fig. 24, element 374a) and a bottom layer B1 (Fig. 24, element 374b); reading data from said first side (Col. 21, line 66-Col. 22, line 4); switching to said second side without turning the disc over and without stopping the rotation of the disc (Col. 21, lines 55-65); and reading data from said second side (Col. 22, lines 4-21). Mitzutani does not disclose that the optical disc has a lead-in area, a lead-out area and a middle area, said disc having data arranged in sequence from said lead-in areas to said lead-out areas.

Ito '909 discloses an optical disc (Fig. 6, element 50) with a side (Fig. 6, elements 51 and 52) having a top layer (Fig. 6, element 51) and a bottom layer (Fig. 6, element 52); a lead-in area (Fig. 6, element 101), a lead-out area (Fig. 6, element 104) and a middle area (Fig. 6, elements 102 and 103), said disc having data arranged in sequence from said lead-in area to said lead-out area (Figs. 6 and 10). Ito '909 teaches that having a lead-in area, a lead-out area, a middle area in a side of an optical disc and arranging the data in a sequence from said lead-in area to said lead-out area facilitates an opposite path arrangement (Paragraphs 0009-10), which increases access speed by allowing the access point to remain stationary in the radial direction (compare the parallel path of Fig. 3C with the opposite path of Figs. 4C and 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the first and second sides of Mitzutani to each have a lead-in area, a lead-out area and a middle area, and for the disc of Mitzutani to have data arranged in sequence from said lead-in areas to said lead-out areas as suggested by Ito

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'909, the motivation being to facilitate an opposite path arrangement, and thereby increase access speed.

In regard to claim 22, Mitzutani discloses reading data from said first side using a first laser head (Fig. 24, element 376) and reading data from said second side using a second laser head (Fig. 24, element 382).

13. Claims 14-19, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitzutani in view of Ito '909, as applied to claims 13 and 22 above, and further in view of Lee et al (hereafter Lee) (US 2004/0032813).

Mitzutani in view of Ito '909 does not disclose the sequence in which the layers are read.

Lee discloses a disc having side with a top layer and a bottom layer (Figs. 1-4, elements 10 and 11). Lee further discloses that reading the top layer before reading the bottom layer was an art-recognized equivalent to reading the bottom layer before reading the top layer at the time of the invention for the purpose of opposite path arrangement playback (Figs. 1-4 and Paragraphs[0034, 0037 and 0038]).

Therefore, one of ordinary skill would have found it obvious to use in the method of Mitzutani in view of Ito '909 either one of the arrangements of Lee, including reading the top layer before reading the bottom layer or reading the bottom layer before reading the top layer, for performing opposite path arrangement playback in the method of Mitzutani. As a result, the method of Mitzutani in view of Ito '909 and further in view of Lee is not limited in the order in which the layers of Mitzutani are read and data from the layers of Mitzutani are read in any possible sequence including A0-A1-B1-B0, A1-A0-

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B1-B0, A1-A0-B1-B0, A1-A0-B0-B1, A0-A1-B1-B0, A0-B0-B1-A1, A0-A1-B0-B1 and A0-B0-A1-B1 as claimed in claims 14-19, 23 and 24 respectively.

***Response to Arguments***

14. Applicant's arguments filed September 28, 2006 with respect to rejections involving Ito '032 have been fully considered but they are not persuasive. Applicant argues that the contents of Ito '032 are "immaterial" because Applicant interprets the disc of Ito '032 to have four layers to all be disposed on the same side of the disc. However, the disc of Ito '032 is not limited to Applicant's interpretation. Another reasonable interpretation, which is the one used in the rejections over Ito '032, is that the disc of Ito '032 has a first side above the division between layers L2 and L3 (Fig. 2) comprising layers L3 and L4 and a second side below the division between layers L2 and L3 (Fig. 2) comprising layers L1 and L2. The fact that both sides of the optical disc of Ito '032 are read from the same side does not preclude layers L1 and L2 from being on a different side than L3 and L4 because the layers of one side are read by passing light through the other side.

It is difficult to understand exactly why Applicant believes that the claimed first and second sides do not read on the side of Ito '032 including L3 and L4 and the side of Ito '032 including L1 and L2, respectively because Applicant's Remarks simply dismiss Ito '032 as "immaterial." It is believed that Applicant is reading unclaimed features of Applicant's sides included in the specification into the claim. Although Applicant's specification is ripe with features to distinguish Applicant's sides from those of Ito '032 (for instance Applicant could claim that the layers of the first side are irradiated with light traveling in a first direction and the layers of the second side are irradiated with light



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traveling in a second direction that is opposite that of the first direction), those features are not included in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

15. Applicant's arguments filed September 28, 2006 with respect to rejections involving O'Hara have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Battaglia whose telephone number is (571) 272-7568. The examiner can normally be reached on M-F, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Michael Battaglia



ANDREA WELLINGTON  
SUPERVISORY PATENT EXAMINER